REMARKS

Claims 1-17 are pending in this application. By this Amendment, claims 1-6, 8 and 10-12 are amended for form. Further support for the amendments to claims 1-6, 8 and 10-12 can be found at least at paragraphs [0043]-[0047] of the specification. No new matter is added.

Entry of the amendments is proper under 37 CFR §1.116 because the amendments: (a) place the application in condition for allowance, for the reasons discussed herein; (b) do not raise any new issue requiring further search and/or consideration as the amendments amplify issues previously discussed throughout prosecution; and (d) place the application in better form for appeal, should an appeal be necessary. The amendments are necessary and were not earlier presented because they are made in response to arguments raised in the final rejection. Entry of the amendments is thus respectfully requested.

Claims 1, 4, 7-9 and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over Benveniste et al. (U.S. Patent Application Publication No. 2005/0009533), in view of Shankar et al. (QoS Signaling for Parameterized Traffic in IEEE 802.11e Wireless LANs). The rejection is respectfully traversed.

Benveniste and Shankar, alone or in a permissible combination, do not teach and would not have rendered obvious all of the claimed features of independent claims 1 and 8. For example, Benveniste and Shankar do not teach and would not have rendered obvious "estimating a bit rate value for at least one packet amongst a plurality of packets of an initialization message received by the monitoring server; comparing that value to a predetermined maximum authorized bit rate value for packets of initialization messages; and authorizing transmission of the packet only if the bit rate value for that packet does not exceed the predetermined maximum authorized bit rate value for packets of initialization messages," as recited in independent claims 1 and 8. (Emphasis added).

Benveniste merely relates to a quality-of-service and call admission control that allows the set-up of calls in wireless networks. In particular, calls are set-up by determining the available bandwidth and comparing this available bandwidth to the call requirements so that the calls can be accepted or declined depending on the available bandwidth. See paragraphs [0010] and [0012] of Benveniste.

The bit rate value of initialization message packets is insignificant compared to the bit rate value of packets carrying multimedia contents. Therefore, in Benveniste, determining the available bandwidth cannot be based upon the bit rate value of initialization message packets. Likewise, evaluating fulfillment of call requirements cannot be based on an available bandwidth for packets of initialization messages. In other words, evaluating the bit rate value of initialization message packets and comparing it with a predetermined maximum authorized bit rate value for packets of initialization messages would be meaningless in Benveniste.

Not only does Benveniste fail to disclose or render obvious a step of estimating a bit rate value for packets of an initialization message received by a monitoring server and comparing the bit rate with a predetermined maximum authorized bit rate value for packets of initialization messages, but a person of ordinary skill would not have been motivated to achieve the claimed invention based on the disclosure of Benveniste because such a combination would not solve the problem of Benveniste. The problem solved by Benveniste is quite distinct from that of the present application. Benveniste relates to the billing of multimedia streams exchanged over a network. In Benveniste, the available bandwidth is estimated and the set-up of a call is either accepted or declined. However, there is no need to estimate the bit rate value for packets of initialization messages independent of other packets. Benveniste does not suggest the use of packets of initialization messages to transmit content data. Accordingly, one of ordinary skill would not have been motivated to modify the teachings of Benveniste to achieve the claimed invention.

The current claims clarify that the estimated bit rate is an estimated bit rate of packets of initialization messages and the threshold to which it is compared is a predetermined maximum authorized bit rate value for packets of initialization messages. The predetermined maximum authorized bit rate value for packets of initialization messages cannot be assimilated to an authorized bandwidth in the sense that bandwidth is independent of the kind of transmitted packets.

The current application controls the exchange of packets of initialization messages, without analyzing their content, to avoid illicint echanges of multimedia information over the network as initialization message packets. (See present specification, paragraphs [0009] and [0010]). This control are accomplished by estimating the bit rate value of packets of the initialization message that is compared to a predetermined maximum authorized bit rate value for packets of initialization messages. (See specification, paragraph [0013]). The estimation is independent of the available bandwidth and independent of the bandwidth required to transmit content data after initialization.

The above features of independent claims 1 and 8 are not taught and would not have been rendered obvious by the cited references.

Therefore, for at least these reasons, Applicants respectfully submit that independent claims 1 and 8 are patentable over Benveniste and Shankar. Claims 4, 7, 9 and 15 variously depend from independent claims 1 and 8. Therefore, claims 4, 7, 9 and 15 are also patentable over Benveniste and Shankar for at least their dependency on independent claims 1 and 8, as well as for the additional features they recite. Applicants thus respectfully request withdrawal of the rejection.

Claims 2, 11 and 13 are rejected under 35 U.S.C. §103(a) as being unpatentable over Benveniste, in view of Shankar, in further view of Vaid et al. (U.S. Patent No. 5,502,131); claims 3, 12 and 14 are rejected under 35 U.S.C. §103(a) as being unpatentable over

Benveniste, in view of Shankar, in further view of Chen et al. (U.S. Patent No. 6,487,170); claims 5, 6, 16 and 17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Benveniste, in view of Shankar, in further view of Ballew (Managing IP Networks with Cisco Routers); and claim 10 is rejected under 35 U.S.C. §103(a) as being unpatentable over Benveniste, in view of Shankar, in view of Vaid, and in further view of Chen. The rejections are respectfully traversed.

Claims 2, 3, 5, 6, 10-14, 16 and 17 depend from independent claim 1. Therefore, claims 2, 3, 5, 6, 10-14, 16 and 17 are also patentable over the above-applied references for at least their dependency on independent claim 1, as well as for the additional features they recite. Applicants thus respectfully request withdrawal of the rejections.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,

William P. Berridge
Registration No. 30,024

Patrick T. Muffo
Registration No. 60,342

WPB:PTM/hs

Date: November 18, 2009

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

DEPOSIT ACCOUNT USE AUTHORIZATION
Please grant any extension necessary for entry;
Charge any fee due to our Deposit Account No. 15-0461